

77-23b-6 Notifying subscriber or customer of court order -- Requested delay -- Grounds -- Limits.

- (1)
- (a) The governmental entity acting under Section 77-23b-4 may:
 - (i) if a court order is sought, include in the application a request for an order delaying notification to the subscriber for not to exceed 90 days and, if the court determines there is reason to believe that notification of existence of the court order may have an adverse result, the court shall grant the order; or
 - (ii) if an administrative subpoena authorized by a state or federal statute or a state or federal grand jury subpoena is obtained, delay notification to the subscriber for not to exceed 90 days, upon the execution of a written certification of a supervisory official that there is reason to believe that the notification of the existence of the subpoena may have an adverse result.
 - (b) An adverse result is:
 - (i) endangering the life or physical safety of an individual;
 - (ii) flight from prosecution;
 - (iii) destruction of or tampering with evidence;
 - (iv) intimidation of potential witnesses; or
 - (v) otherwise seriously jeopardizing an investigation or unduly delaying a trial.
 - (c) The governmental entity shall maintain a true copy of certification under Subsection (1)(a)(ii).
 - (d) Extensions of the delay of notification under Section 77-23b-4 of up to 90 days each, may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with Subsection (2).
 - (e) On expiration of the period of delay of notification under Subsection (1)(a) or (d), the governmental entity shall serve upon, or deliver by registered or first class mail, to the customer or subscriber a copy of the process or request together with a notice:
 - (i) stating with reasonable specificity the nature of the law enforcement inquiry; and
 - (ii) informing the customer or subscriber:
 - (A) that information maintained for the customer or subscriber by the service provider named in the process or request was supplied to or requested by that governmental authority and the date the supplying or request took place;
 - (B) that notification of the customer or subscriber was delayed;
 - (C) which governmental entity or court made the certification or determination pursuant to which that delay was made; and
 - (D) which provision of this chapter allows the delay.
 - (f) As used in this subsection, "supervisory official" means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigative agency's headquarters or regional office; a county sheriff or chief deputy sheriff, or police chief or assistant police chief; the officer in charge of an investigative task force or the assistant officer in charge; or the attorney general, an assistant attorney general, a county attorney or district attorney, a deputy county attorney or deputy district attorney, or the chief prosecuting attorney of any political subdivision of the state.
- (2) A governmental entity acting under Section 77-23b-4, when not required to notify the subscriber or customer, or to the extent that it may delay notice under Subsection (1), may apply to a court for an order commanding the provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for a period of time the court considers appropriate, to not notify any other person of the existence of the warrant,

subpoena, or court order. The court shall enter the order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in:

- (a) endangering the life or physical safety of an individual;
- (b) flight from prosecution;
- (c) destruction of or tampering with evidence;
- (d) intimidation of potential witnesses; or
- (e) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

Amended by Chapter 115, 2012 General Session